

## REMARKS

Status of the claims: Claims 1-9, 12-19, 28-29 and 31 are currently pending. Claims 11 and 24 were previously canceled. Claims 10, 20-23, 25-27 and 30 are now canceled.

The present application in its preferred embodiments is directed to a filter cigarette having a filter of novel construction. A conventional filter generally consists of three components, namely:

1. a cylindrical plug of filtration material, most commonly cellulose acetate.
2. a porous paper wrapped around and stabilizing the filter plug commonly referred to as plugwrap. The plugwrap is wrapped around the plug of filtration material and glued with adhesive at the overlapping seam and serves to fix the structure of the filter so it can be transported to the cigarette making machinery.
3. a paper commonly referred to as tipping paper which encircles the plug wrap wrapped around the plug of filtration material, and which is longer than the plug of filtration material so that it overlaps the cigarette paper wrapped tobacco rod and serves to interattach the filter to the cigarette paper wrapped rod.

The conventional filter discussed above presents several disadvantages in the manufacture of a filter cigarette. The necessity of providing a double wrapping of plug wrap and tipping paper results in a relatively expensive construction for a cigarette. The need for an adhesive in the seam of the porous plugwrap frequently results in a bleed-through of the adhesive which is detrimental

to the cigarette making machinery and to the final filter and cigarette and their performance. Additionally, the conventional filter construction can lead to hot coal fallout as the cigarette burns down towards the filter and tipping paper. These disadvantages can be substantially ameliorated by the use of the novel filter construction of the embodiments of the invention.

Applicant has discussed that by the use of a tipping paper having an inherent permeability of 50-500 CU, a filter providing consistency in the level of ventilation can be constructed without the need for a layer of plugwrap surrounding the plug of filtration material. In Applicant's construction, a layer of tipping paper with inherent permeability of 50-500 CU is wrapped around the filter plug in direct contact with the filtration material of the plug. The tipping paper is wrapped only along the length of the filter plug and does not extend beyond to connect with the cigarette paper wrapped rod. Instead a separate, relatively narrow strip of material is wrapped around the joint abutment of the filter and the cigarette rod to secure the filter thereto.

Applicant's embodiments of construction provide the smoker with a filter which has a familiar feel, since the smoker's lips contact only familiar tipping paper. The construction however provides a number of advantages as compared to conventional filter construction.

First, the construction of the filter is simpler and easier to assemble, yet it can still be used with conventional cigarette making machinery. Secondly, the elimination of the double wrapping with a conventional plugwrap makes for a less expensive filter. Additionally, Applicant's construction eliminates the need for adhesive in a plug wrap seam, eliminating the possibility of bleed-through and its problems discussed above. Moreover, the use of a separate relatively thin

strip connecting the filter to the cigarette rod, allows the use of a material for the strip which does not have to meet the requirements for the additional length of tipping paper used in a conventional filter, again a cost saving, and the material for the strip can be treated with a material which will cause the cigarette to extinguish when the coal reaches the strip, or the strip can be made of a heavy weight, low permeability paper which results in a reduced burn rate; both of these embodiments will serve to help prevent the hot coal fallout discussed above.

The Examiner has rejected claims 1 and 2 under 35 U.S.C. 102(b) and alternatively under 35 U.S.C. 103(a) over *Berger* (US 4,675,064). These rejections are respectfully traversed.

Turning first to the 102(b) rejection, neither of the Fig. 1 or Fig. 3 embodiments of *Berger* teach, suggest, or motivate one skilled in the art to use the embodiments of Applicant's invention.

Both of the *Berger* embodiments use a smoke impervious or non-porous film plug wrap in direct contact with the filter material. Neither of the *Berger* embodiments teach the use of a tipping paper having an inherent permeability of 50-500 CU as the material directly wrapped about the filter material. In fact *Berger* emphasizes the distinction from Applicant's embodiments by terming that film material as a plug wrap. Thus the only teaching of *Berger* in that regard is to use some sort of plug wrap directly in contact with the filter material. Accordingly since a rejection under 35 U.S.C. 102(b) must be based on a reference which teaches every element of the claim, M.P.E.P. §2131, and since there is absolutely no teaching in *Berger* to use tipping paper of a designated CU value in direct contact with the filter material, the anticipation rejection should be withdrawn.

As to the rejection under 103(a), *Berger*'s only use of a tipping paper surrounding the filter (Fig. 2) is in the conventional manner, that is wrapped about a plug wrap which is in contact with the filter material. There is absolutely no teaching, suggestion, or motivation in *Berger* of using tipping paper of a specified CU as the material solely in contact with the filter material, and in fact as the sole material completely surrounding the length of the filter plug. It is therefore respectfully requested that the 103(a) rejection be withdrawn.

Current claims 3, 4-6, 7-8, 9, 12, 13-17, 28-29, and 31 have all been rejected under 35 U.S.C. 103(a) over *Berger* and/or in various combinations in view of *Barnes*, U.S. 4,040,430, *Perfetti*, U.S. 4,998,541, *Salonen*, *Bushby*, *Clarke*, U.S. 6,718,989, and U.S. 5,595,196. The deficiencies of *Berger* as a reference have been discussed in detail above with reference to claim 1. None of the additional patents cited cure the deficiencies of *Berger* as a reference, and since claims 3, 4-6, 7-8, 9, 12, 13-17, 28-29, and 31 all depend directly or indirectly from claim 1, they are each patentable for those reasons discussed with regard to claim 1.

It is noted that there is no mention of claim 18 in the current Office Action. However, Applicant has amended claim 18 to clearly recite that the method involves producing filter tip cigarettes from filters made of filtration material and wrapped along their length in a tipping paper having an inherent permeability of 50-500 CU which is in direct contact with the filter material. Additionally the double cigarette assembly recited in claim 18 is produced with two narrow strips of material interattaching the ends of the double filter to their respective cigarette rods. Accordingly when the double filter is cut, there are produced two filter tip cigarettes each having

filters corresponding to the one discussed above in connection with claim 1.

Claim 19 has been rejected under 35 U.S.C. 103(a) over U.S. 4,040,430 (*Molins*) in view of U.S. 4,675,064 (*Berger*) and U.S. 6,718,989 (*Clarke*). Applicant respectfully traverses that rejection. In a manner similar to claim 18, claim 19 has been amended to more clearly set forth that the filter involved is formed of filtration material which is wrapped along the length thereof in a tipping paper having an inherent permeability of 50-500 CU and which is in direct contact with the filtration material. None of the patents cited teaches, suggests, or motivates one to produce such a filter construction by the method set forth in claim 19.

Accordingly it is submitted that this application is now in condition for allowance and such action is respectfully requested.

The Examiner is invited to telephone the undersigned attorney if there are any issues which require further discussion.

Respectfully submitted,

/Charles I. Sherman/

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